

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HYUK KEE YOO, a/k/a “KEITH YOO,” :

Petitioner, :

vs. :

UNITED STATES OF AMERICA, :

Respondent. :

Case No. 7:21-cv-06184

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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Hyuk Kee Yoo, a/k/a Keith Yoo, hereby submits this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Because of the dense factual and legal history of this proceeding and the need to file this petition quickly in order to forestall Mr. Yoo’s removal from the United States, we submit this petition in abbreviated form. We respectfully propose that full briefing proceed in accordance with the following schedule, to which the Government has agreed:

Mr. Yoo’s opening papers: August 16, 2021

Government’s opposition papers: September 13, 2021

Mr. Yoo’s reply papers: September 20, 2021

In support of this petition, we offer the following facts:

1. On or about February 27, 2020, the Government filed a complaint requesting the issuance of a warrant for Mr. Yoo’s arrest pursuant to 18 U.S.C. § 3184 and seeking his extradition to the Republic of Korea to stand trial on seven embezzlement charges.¹ Mr. Yoo was arrested at his home in Pound Ridge, New York, on July 22, 2020. That same day, he was

¹ That action was captioned In re Extradition of Hyuk Kee Yoo, No. 20 Mag. 2252 (JCM).

presented before Magistrate Judge Lisa Margaret Smith, who ordered him detained pending extradition proceedings. Mr. Yoo has remained in custody since his arrest.

2. On October 5, 2020, Mr. Yoo filed a motion to dismiss Korea's request to certify him as extraditable. On December 8, 2020, the Government filed a brief in support of extradition, attaching additional materials to supplement Korea's request. On December 21, 2020, Mr. Yoo filed a brief in reply. On January 7, 2021, the Government submitted further supplemental materials from Korea in support of extradition, and thereafter Mr. Yoo filed a response to that submission. On March 3, 2021, Magistrate Judge Judith C. McCarthy held a hearing pursuant to 18 U.S.C. § 3184.

3. On July 2, 2021, Magistrate Judge McCarthy denied Mr. Yoo's motion to dismiss and issued a Certification of Extraditability and Order of Commitment.

4. Mr. Yoo has a right to bring this action in the District Court in the form of a § 2241 petition, which has the effect of appealing the Magistrate Judge McCarthy's decision. See Skaftouros v. United States, 667 F.3d 144, 157 (2d Cir. 2011)("[b]ecause extradition orders are regarded as preliminary determinations, and not 'final decisions' appealable as of right under 28 U.S.C. § 1291, they may only be reviewed by a petition for a writ of habeas corpus under 28 U.S.C. § 2241").

5. This Court has jurisdiction over this petition pursuant to 18 U.S.C. § 3184 and 28 U.S.C. § 2241. We submit that the extradition papers are insufficient to support Magistrate Judge McCarthy's findings, and therefore Mr. Yoo is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

6. Although Mr. Yoo's arguments will be set forth fully in his opening brief, we believe that he cannot be extradited because (i) the charges against him are time barred; and

(ii) there is not probable cause to believe that he committed any of the seven alleged embezzlement crimes.

WHEREFORE, we respectfully request that the Court issue a writ of habeas corpus; that the Certification of Extraditability and Order of Commitment be vacated; and that the Court grant such other and further relief as it may deem just and proper.

Dated: New York, New York
July 20, 2021

Respectfully submitted,

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